



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-250**
 Refuse-solid waste collection business-Core
 deposits
 and credits, battery core charges

Date last reviewed: **April 22, 1998**

Current Reviewer: **JoAnne Gordon**

Date current review completed: **September 18, 2001**

Is this document being reviewed at this time because of a taxpayer or association request? (If "YES", provide the name of the taxpayer/association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Briefly describe the subject matter of the rule(s):

This rule explains the application of the refuse and solid waste collection taxes to solid waste collection services. To prevent a pyramiding of the solid waste collection tax, the rule provides a sample refuse-solid waste collector's exemption certificate for use by solid waste collection businesses using the services of another solid waste collection business for purposes of transferring, storing, or disposing of collected wastes. The rule explains the B&O, retail sales, and use tax reporting responsibilities of solid waste collection businesses. In addition, the rule discusses the retail sales tax exemption for core deposits and credits and explains the fee for replacement tires.

2. Related statutes, interpretive statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered interpretive statements.)

YES	NO	
	X	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review



		Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

3. Additional information: Identify any additional issues (other than that noted above or in the previous review) that should **be** addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

For ease of administration and accounting, WAC 458-20-250 refers to the 3.6 percent solid waste collection tax as the refuse collection tax. To be consistent with the statute, any amendment to the rule should refer to the tax as the solid waste collection tax.

4. LISTING OF DOCUMENTS REVIEWED: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive statements, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

Chapter 320, Laws of 2001 clarifies that income derived from collecting, receiving, transferring, transporting, storing, or disposing of solid waste is subject to the service and other activities B&O tax and not the public utility tax. The Department’s interpretation of the B&O tax treatment of such activities, as stated in the rule, is consistent with this legislative clarification.

Interpretive statements (e.g., ETAs and PTAs):



Court Decisions:

Board of Tax Appeals Decisions (BTAs):



Administrative Decisions (e.g., WTDs):

- **Det. No. 89-435, 8 WTD 167 (1989)** concluded that yard waste, collected primarily for recycling, is not subject to the solid waste collection tax when the yard waste is separately collected and delivered to a facility for the purpose of making compost. Similarly, a city that internally identifies amounts for the curbside collection of recycling materials may exclude such amounts from the measure of the solid waste collection tax when such services are actually provided.
- **Det. No. 93-090, 12 WTD 609 (1993)** held that income derived for removing petroleum products and other wastes from a ship's bilges for treatment and recycling is subject to services and other activities B&O tax.
- **Det. No. 95-170, 16 WTD 43 (1995)** held that a taxpayer who sorts, removes nonmetal items, and compacts loose scrap metal into cubes is deemed to be a processor for hire. In a compacted form, the handling, storing, and transporting of the materials were easier than in loose and scrap form, and the combustion point was significantly altered for purposes of remanufacturing. Thus the metal's market value was enhanced. Sorting and compacting loose sheet metal constitute a significant change resulting in a new, different or useful substance within the meaning of RCW 82.04.110.
- **Det. No. 98-033E, 17 WTD 402 (1998)** held that income derived by cities providing solid waste collection services subject to B&O tax under the service and other activities classification. The determination also confirmed that amounts derived by city providing solid waste collection services to another political subdivision of the state deductible from gross income as provided by RCW 82.16.4291. When charges are not separately stated, amounts allocable to charges for services not subject to solid waste collection services may be excluded from measure of tax when the taxpayer can show that the amounts are included as a component charge.

Attorney General's Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

4. Review Recommendation:

 X Amend



- _____ **Repeal** (Appropriate when repeal is not conditioned upon another rule-making action.)
- _____ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- _____ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

WAC 458-20-250 should be amended to reflect the recommendations from the previous rule review. At such time as the rule is amended, the term “refuse collection tax” should be altered so as to be consistent with chapter 82.18 RCW.

5. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

- _____ 1
_____ 2
_____ 3
_____ 4